



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

May 1, 1939

Honorable O. Kennedy
County Attorney
Bee County
Beeville, Texas

Dear Mr. Kennedy:

Opinion No. O-718
Re: Can the Commissioners' court
employ an architect who is
the son of the County Judge
to supervise improvements to
be made on the County Court
House?

This is in reply to your letter of April 28, 1939,
in which you ask the following question:

"Can the Commissioners' Court employ an
architect who is the son of the County Judge
to supervise improvements to be made on the
County Court House?"

Your attention is directed to the following Arti-
cles 452 and 453, respectively, of the Penal Code:

"No officer of this State or any officer
of any district, county, city, precinct, school
district, or other municipal subdivision of this
State, or any officer or member of any State,
district, county, city, school district or
municipal board, or judge of any court, created
by or under authority of any general or special
law of this State, or any member of the Legisla-
ture, shall appoint, or vote for, or confirm the
appointment to any office; position, clerkship,
employment or duty, of any person related within
the second degree by affinity or within the third
degree by consanguinity to the person so appoint-
ing or so voting, or to any other member of any
such board, the Legislature, or court of which
such person so appointing or voting may be a
member, when the salary, fees, or compensation

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of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever.

" The inhibitions set forth in this law shall apply to and include the Governor, Lieutenant Governor, Speaker of the House of Representatives, Railroad Commissioners, head of departments of the State government, judges and members of any and all Boards and courts established by or under the authority of any general or special law of this State, members of the Legislature, mayors, commissioners, recorders, aldermen and members of school boards of incorporated cities and towns, public school trustees, officers and members of boards of managers of the State University and of its several branches, and of the various State educational institutions and of the various State eleemosynary institutions, and of the penitentiaries. This enumeration shall not be held to exclude from the operation and effect of this law any person included within its general provisions."

The relationship of father and son is the first degree of consanguinity and comes within the prohibition contained in the anti-nepotism statutes.

It is our opinion, and you are so advised, that employing the son of the County Judge, which officer presides over the Commissioners' Court, to supervise the improvement to be made to the County Court House of the County in which such improvement is to be paid with County funds, would be a violation of the anti-nepotism law.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By



W. P. Watts
Assistant

WFW:RS

APPROVED:


ATTORNEY GENERAL OF TEXAS